

MEMO ENDORSED

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

KILTER INDUSTRIES, INC.,

Plaintiff,

v.

AVON PRODUCTS, INC. AND PETER
WAXMAN,

Defendants.

09 CIV 3490 (RJS)

**JOINT LETTER OF COUNSEL
PURSUANT TO COURT'S
ORDER DATED AUGUST 23, 2010**

August 31, 2010

VIA E-MAIL (sullivannysdchambers@nysd.uscourts.gov)

Dear Judge Sullivan:

The undersigned are counsel to Plaintiff Kilter Industries, Inc. ("Kilter") and Defendants Avon Products, Inc. and Peter Waxman (the "Avon Defendants") in the above-referenced action. Pursuant to the Court's August 23, 2010 Order, we submit this joint letter in agreed form concerning the three topics referenced therein. This is intended to supplement any prior scheduling orders entered by the Court in this case.

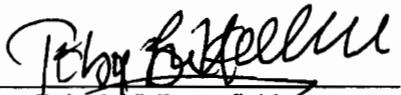
1. The Avon Defendants will file an answer and any counterclaims by **September 10, 2010**.
2. The parties propose the following discovery schedule:
 - a. By **September 30, 2010**, the parties will respond to each other's pending Requests for Admissions and the Avon Defendants will serve responses to Kilter's Interrogatories, for which the time to answer had not expired when the Court stayed all discovery on March 16, 2010.
 - b. The parties are in the process of meeting and conferring regarding their respective discovery responses to date. The parties will work diligently between themselves in a good faith attempt to resolve any alleged discovery response deficiencies.
 - c. The parties will complete all remaining discovery, including depositions, third party discovery (Kilter has subpoenaed two non-parties and Avon anticipates a possible need for third party discovery) and expert discovery by **January 15, 2011**.
 - d. The Court will set a date for a post-discovery conference.

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3. The parties are not at this time requesting a settlement conference with the Court or the Magistrate Judge, but may do so after further discovery is completed.

Respectfully submitted:

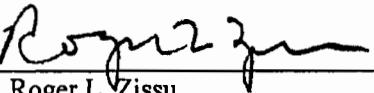
COWAN DeBAETS ABRAHAMS & SHEPPARD, LLP

By: 
Toby M.J. Butterfield

Attorneys for Kilter

The Court adopts the proposed schedule. The post-discovery conference shall take place on February 3, 2011 at 9:15 a.m. Pre-motion letters shall be submitted by January 18, 2011, with responses due by January, 21, 2011.

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: 
Roger L. Zissu

Attorneys for Avon Defendants

SO ORDERED _____
Dated: 9/1/10 RICHARD J. SULLIVAN
U.S.D.J.